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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,440	03/09/2005	Gerd Ahnert	588.1035	6718
23280	7590	07/17/2009	EXAMINER	
Davidson, Davidson & Kappel, LLC			BONCK, RODNEY H	
485 7th Avenue				
14th Floor			ART UNIT	PAPER NUMBER
New York, NY 10018			3655	
			MAIL DATE	DELIVERY MODE
			07/17/2009	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GERD AHNERT and BURKHARD POLLAK

Appeal 2009-002287
Application 10/507,440
Technology Center 3600

Decided:¹ July 16, 2009

Before JENNIFER D. BAHR, STEVEN D.A. McCARTHY
and STEFAN STAICOVICI, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304 (2008), begins to run from the Decided Date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or the Notification Date (electronic delivery).

1 STATEMENT OF THE CASE

2 The Appellants appeal under 35 U.S.C. § 134 (2002) from the
3 Examiner's decision finally rejecting claims 8-10, 14 and 15 under 35
4 U.S.C. § 102(b) (2002) as being anticipated by Basso (FR 2 807 481 A,
5 publ. Oct. 12, 2001);² and finally rejecting claims 8-15 under § 102(b) as
6 being anticipated by Rispeter (US 4,966,270, issued Oct. 30, 1990). We
7 have jurisdiction under 35 U.S.C. § 6(b) (2002).

8 We AFFIRM.

9 Claim 8 is the sole independent claim on appeal:

10
11 8. A twin-clutch system for a transmission,
12 comprising:
13 at least two clutches;
14 a clutch cover mounted at each one of the at
15 least two clutches;
16 at least one clutch-release system arranged
17 to actuate the at least two clutches;
18 the at least one clutch-release system being
19 secured to at least one of the clutch covers, and
20 a fastening member for coupling the clutch
21 covers to one another, the fastening member
22 coupling the clutch covers to one another and
23 spacing the clutch covers from one another.

25 ISSUES

26 The Appellants argue claims 8-10, 14 and 15 as a group for purposes
27 of the rejection of the claims under 35 U.S.C. § 102(b) (2002) as being
28 anticipated by Basso. (App. Br. 3-4). The Appellants argue claims 8-12, 14
29 and 15 as a group for purposes of the rejection of the claims under § 102(b)

² References in this opinion to "Basso" are to an English-language translation made of record in the underlying application.

1 as being anticipated by Rispeter. (App. Br. 4-5). Claim 8 is representative
2 of both groups. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2008). In addition, the
3 Appellants separately argue the rejection claim 13 under § 102(b) as being
4 anticipated by Rispeter.

5 This appeal turns on three issues:

6 Have the Appellants shown that the Examiner erred in
7 finding that Basso discloses a fastening member coupling the
8 clutch covers to one another and spacing the clutch covers from
9 one another as recited in representative claim 8? (See App. Br.
10 4; Reply Br. 2).

11 Have the Appellants shown that the Examiner erred in
12 finding that Risipeter discloses a fastening member coupling the
13 clutch covers to one another and spacing the clutch covers from
14 one another as recited in representative claim 8? (See App. Br.
15 5; Reply Br. 2).

16 Have the Appellants shown that the Examiner erred in
17 finding that Risipeter discloses a fastener including a bolt-
18 shaped connecting element having receiving sections
19 comprising annular grooves at each end of the connecting
20 element? (App. Br. 5).

FINDINGS OF FACT

23 The record supports the following findings of fact (“FF”) by a
24 preponderance of the evidence.

1 1. Basso discloses a clutch 4 for connecting a crankshaft 1 to
2 either a main shaft 2 or an auxiliary tubular shaft 3 concentric with the main
3 shaft 2. (Basso 6, ll. 7-10).

4 2. Basso's clutch 4 includes a clutch plate 49 fastened in rotation
5 with an inertial wheel 11 by means of a fastening 14. (Basso 6, ll. 11-13 and
6 20-22).

7 3. Basso's clutch 4 includes clutch disks 40, 41 placed on opposite
8 sides of the clutch plate 49. (Basso 6, ll. 23-24 and Fig.). The clutch disks
9 40, 41 are slidably mounted on the shafts 2, 3. (Basso 7, ll. 7-10).

10 4. Basso's clutch 4 includes mechanisms 46, 47 which have
11 symmetrical shape and which are symmetrically placed with regard to the
12 clutch plate 49. Both mechanisms 46, 47 are fastened to a ring-shaped
13 portion 13 of the inertial wheel 11 by the fastening 14.

14 5. Basso describes the clutch 4 as requiring notably reduced space
15 because the clutch disks 40, 41 share the clutch plate 49 for engaging the
16 crankshaft 1 with the shafts 2, 3. (Basso 10, ll. 6-9).

17 6. Rispeter discloses a hydraulically operated double clutch.
18 (Rispeter, col. 2, ll. 40-41).

19 7. Rispeter's double clutch includes a clutch housing 1 including a
20 casing part 2 having a center plate 3, which projects radially toward the
21 inside; a left lateral plate 4 which, on the front face, rests against the casing
22 part 2; a left cover plate 5, which is flanged to the lateral plate 4; a right
23 lateral plate 6; and a right cover plate 7, which is flanged to the right lateral
24 plate 6. (Rispeter, col. 2, ll. 42-48).

1 8. Rispeter's casing part 2 and the plates 4, 5, 6, 7 are bolted
2 together by six through-bolts 8 to form the housing 1. (Rispeter, col. 2, ll.
3 48-52).

4 9. Risipeter's bolts 8 appear to have annular recesses adjacent to
5 their heads. (See Risipeter, Figs. 2, 7 and 8). Risipeter provides no written
6 description of these annular recesses.

PRINCIPLES OF LAW

9 A claim under examination is given its broadest reasonable
10 interpretation consistent with the underlying specification. *In re Am. Acad.*
11 *of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). In the absence of
12 an express definition of a claim term in the specification, the claim term is
13 given its broadest reasonable meaning in its ordinary usage as the term
14 would be understood by one of ordinary skill in the art. *In re ICON Health*
15 *& Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007); *In re Morris*, 127
16 F.3d 1048, 1054 (Fed. Cir. 1997). Limitations not explicit or inherent in the
17 language of a claim cannot be imported from the specification. *E-Pass*
18 *Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003).

ANALYSIS

21 Claim 8 recites a “fastening member” coupling the clutch covers to
22 one another and spacing the clutch covers from one another. The Appellants
23 do not define the term “fastening member” in the Specification. The
24 common meaning of the word “member” is sufficiently broad to include any
25 “essential part of a framed structure, a machine, or a device.” WEBSTER’S
26 THIRD NEW INT’L DICTIONARY at 1408 (G&C Merriam Co. 1971)

1 (“member,” def. 4d(2)). Hence, the word “member” itself does not define a
2 particular structure. Instead, it is the functional language “coupling the
3 clutch covers to one another and spacing the clutch covers from one
4 another” which determines what sort of members are “fastening members.”
5 In other words, a “fastening member” within the meaning of the term as
6 used in independent claim 8 is any member which couples the clutch covers
7 to one another and spaces the clutch covers from one another.

8 The Examiner finds that the clutch plate *49* and the fastening *14*
9 disclosed by Basso together constitute a fastening member. (Ans. 3-4). As
10 the Examiner finds (*id.*) and the Appellants do not appear to dispute, the
11 clutch plate *49* and the fastening *14* cooperate to couple the clutch covers *46*,
12 *47* to one another and to space the clutch covers from one another. The
13 Examiner finds that the bolts *8* and the casing part *2* disclosed by Rispeter
14 together constitute a fastening member. (Ans. 4). The Examiner finds (*id.*),
15 and the Appellants do not appear to dispute, that the bolts *8* and the casing
16 part *2* cooperate to couple the clutch covers *4, 6* to one another and to space
17 the clutch covers from one another.

18 In response, the Appellants contend that Basso’s clutch plate *49* “is
19 clearly not a fastening member.” (Reply Br. 2). The Appellants also
20 contend that Rispeter’s casing part *2* “clearly is not a fastening member but
21 part of a cover, which is a separately claimed element.” (*Id.*) The
22 Appellants do not provide any reason why Basso’s clutch plate *49* and
23 fastening *14 together* are not a fastening member or why Rispeter’s casing
24 part *2* and bolts *8 together* are not a fastening member. As to Rispeter’s
25 casing part *2*, the Examiner identifies Rispeter’s lateral plates *4, 6* as clutch
26 covers. The casing part *2* and the bolts *8* are separate structure. Merely

1 pointing out that Rispeter describes the casing part 2 as part of the clutch
2 housing 1 does not explain why the casing part 2 cannot serve as a
3 component of a fastening member.

4 In the Appeal Brief, the Appellants contend that “[b]olt 8 of Rispeter
5 does not include a receiving section that comprises an annular groove, as
6 claimed.” (App. Br. 5). The Examiner points out that Rispeter’s bolt 8
7 appears to have an annular groove at one end near the head of the bolt and
8 an annular thread at the other end. (Ans. 4-5). The Appellants neither
9 contest this finding nor explain why they believe the annular groove and the
10 annular thread are not receiving sections.

11

12 CONCLUSIONS

13 The Appellants have not shown that the Examiner erred in finding that
14 Basso discloses a fastening member coupling the clutch covers to one
15 another and spacing the clutch covers from one another as recited in
16 representative claim 8. Therefore, the Appellants have not shown that the
17 Examiner erred in rejecting claims 8-10, 14 and 15 under § 102(b) as being
18 anticipated by Basso.

19 The Appellants have not shown that the Examiner erred in finding that
20 Rispeter discloses a fastening member coupling the clutch covers to one
21 another and spacing the clutch covers from one another as recited in
22 representative claim 8. Therefore, the Appellants have not shown that the
23 Examiner erred in rejecting claims 8-12, 14 and 15 under § 102(b) as being
24 anticipated by Rispeter.

25 The Appellants have not shown that the Examiner erred in finding that
26 Rispeter discloses a fastener including a bolt-shaped connecting element

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1 having receiving sections comprising annular grooves at each end of the
2 connecting element. Therefore, the Appellants have not shown that the
3 Examiner erred in rejecting claim 13 under § 102(b) as being anticipated by
4 Rispeter.

5

6 DECISION

7 We AFFIRM the rejections of claims 8-15.

8 No time period for taking any subsequent action in connection with
9 this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.
10 § 1.136(a)(1)(iv) (2007).

11

12 AFFIRMED

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15 Klh

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